

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IVAN ALEXANDROVICH VETCHER,)
Plaintiff,)
v.)
IMMIGRATION CUSTOMS)
ENFORCEMENT AGENTS (ICE))
GROUP 1 (Agents A-H, including DO)
Anthanasios Karakostas, Supervisory)
Detention and Deportation Office (SDDO))
Irving Aguilera, SDDO Thomas)
Weidlein,)
GROUP 2 (Agents I and J, including)
Steven Garlic, T.G.¹),)
GROUP 3 (Agents K and Unknown).)
Defendants)

Case No.18-CV-6798

Jury Trial Demanded

Amended Complaint

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 17 2021 ★

BROOKLYN OFFICE

42 U.S.C. § 1983 AND BIVENS ACTION

Defendant Groups/Summary of Claims

ICE GROUP 1 (Agents A-H) Eight ICE agents participated in Vetcher's attempted deportation on March 3, 2015. Vetcher alleges that DO Anthanasios Karakostas, Supervisory Detention and Deportation Office (SDDO) Irving Aguilera, SDDO Thomas Weidlein and other Unknown Agents were part of that group.

1. ICE GROUP 1 AGENT A used excessive force to choke Vetcher when attempting to stifle Vetcher's protests. AGENT A threatened Vetcher that his bags (weighing more than 70 pounds) of personal belongings and legal paperwork would be trashed if Vetcher could not carry them himself. Handcuffed and shackled,

¹ Identified by the government as T.G. in a September 5, 2019 letter to the court.

Vetcher injured his wrists and ankles as he dragged his bags for over half a mile through John F. Kennedy International Airport (JFK).

2. The remaining 7 agents from ICE GROUP 1 who witnessed AGENT A's abuse of Vetcher failed to intervene to uphold Vetcher's 4th constitutional rights to be protected from excessive force. Vetcher was passively non-compliant. ICE GROUP 1 AGENT B, who was recording the incident on a camcorder, threatened Vetcher that he would be charged with assaulting an officer if he did not board the airplane.

ICE GROUP 2 (Agent I and J) Steven Garlic, T.G. and Two ICE officers transported Vetcher from Batavia to Hudson and from Hudson to Batavia, on March 2nd and 4th of 2015, respectively.

1. Steven Garlic handcuffed Vetcher's wrists so tight during transport that Vetcher experienced shooting pain from abrasions sustained from March 3, 2015 . When Vetcher informed ICE GROUP 2 about the pain caused by the handcuffs, Steven Garlic inserted his right thumb between the handcuffs (both hands) and the swollen abrasions on the inner part of Vetcher's wrists (vs a finger along the topside of the wrist during the initial handcuffing) and twisted so that the abrasions would rub against the handcuffs even more, causing Vetcher more pain.
2. T.G. witnessed Steven Garlic's abuse of Vetcher and failed to intervene to uphold Vetcher's 4th constitutional rights to be protected from excessive force.

ICE GROUP 3 (Agent K and unknown, including Supervisory Detention and Deportation Office (SDDO) Irving Aguilera, SDDO Thomas Weidlein) ICE agents who received Vetchers' travel documents and failed to notify the

United States Court of Appeals for the Fifth Circuit (Fifth Circuit) and Office of Immigration Litigation that Vetcher's deportation was imminent and scheduled for March 3 2015; the Fifth Circuit directed opposing parties to inform the Fifth Circuit if removal was scheduled. Vetcher notified ICE GROUP 3 AGENT K, the deportation officer in Batavia, that a stay of removal was pending and of the Fifth Circuit's directive to be informed of removal proceedings.

Claims

Excessive Use of Force by ICE Group 1

Around 0600 hours of March 3, 2015, two agents from ICE GROUP 1 (not AGENT A) picked up Vetcher from Hudson Detention Center and transferred Vetcher to Varrock Street Immigration Office (Varrock). Vetcher remained at Varrock from about 0700 to 1300. At Varrock, Vetcher protested when two agents from ICE GROUP 1 began throwing away food from Vetcher's bags.

Vetcher:	Why are you doing that?
ICE GROUP 1 AGENT UNKNOWN (B-H):	It's airline policy.
Vetcher:	May I see it, please?
ICE GROUP 1 AGENT UNKNOWN (B-H):	We'll get it to you.
Vetcher:	Even if there is a problem with carry on, I can still take it as luggage.
ICE GROUP 1 AGENT UNKNOWN (B-H):	Look. You can't take it. It's airline policy.
Vetcher:	But you haven't shown it to me.
ICE GROUP 1 AGENT UNKNOWN (B-H):	This is just how it is. We'll show it to you before you leave.
Vetcher:	Do you have my travel documents?
ICE GROUP 1 AGENT UNKNOWN (B-H):	Yeah we do.
Vetcher:	May I see it?
ICE GROUP 1 AGENT UNKNOWN (B-H):	Yeah you can see it before we leave.

Vetcher: My flash drive is not in my property.
ICE GROUP 1 AGENT UNKNOWN (B-H): If it's not here, it's not here. There is nothing we can do about that now.
Vetcher: I can't cooperate with the removal. My litigation is still on-going. My stay of removal is still pending. I can't fight my case in a foreign country.
ICE GROUP 1 AGENT UNKNOWN (B-H): Are you gonna get all aggressive on us?
Vetcher: No. I am just letting you know I have a pending stay of removal.

Vetcher was transferred to JFK around 1400. Moments before boarding of the plane, one of the two escorting agents in GROUP 1 (AGENT B-H) asked Vetcher, "Are you gonna do anything stupid?" Vetcher responded, "No." The agent removed Vetcher's handcuffs to escort him to the gate with his belongings. As Vetcher arrived at the gate, he again informed the agents of his pending stay of removal:

Vetcher: I have a pending stay of removal.
ICE GROUP 1 AGENT UNKNOWN (B-H): It doesn't show that we have one.
Vetcher: Can I call the Fifth Circuit Clerk?

ICE GROUP 1 AGENT UNKNOWN (B-H) dialed the number for Vetcher.

Clerk: This is Fifth Circuit Court of Appeals Clerk, How can I help you?
Vetcher: My name is Ivan Vetcher. I have a pending case before this court. Was my stay of removal granted?
Clerk: Hold on a minute. Let me transfer you to the Immigration Department.

Pause. Click. The Immigration Department Clerk Picks up.

Clerk: This is Immigration Department for the Fifth Circuit Court of Appeals. How may I help you?
Vetcher: My name is Ivan Vetcher. Has my stay of removal been approved?

Clerk: Can you spell your name for me?
Vetcher: V-E-T-C-H-E-R, V as is Victor, E as in Elk, T as in Teacher, C as in Cat, H as in Harry, E as in elk, R as in Robert.

After a pause.
Clerk: Mr. Vetcher it shows that your case is still pending.
Vetcher: There has been no decision?
Clerk: No, sir.
Vetcher: What am I supposed to do? I am in JFK airport. ICE is trying to deport me right now.
Clerk: I don't know what to tell you sir.
Vetcher: Well... can you at least tell the ICE officer that I am pending a decision on my stay of removal motion?
Clerk: Okay.

Vetcher handed the phone to the ICE GROUP 1 AGENT UNKNOWN (B-H). The agent listened to the clerk. He said "Okay." He passed the phone back to Vetcher

Clerk: I told him.
Vetcher: Thank you.
Clerk: Anything else I can do?
Vetcher: No, thank you. Bye, bye.
Clerk: Bye, bye.

Vetcher handed the agent back the phone.

Vetcher: May I call my wife?
ICE GROUP 1 AGENT UNKNOWN (B-H): Okay. Once we are through the gate
ICE GROUP 1 AGENT UNKNOWN (B-H): What's her number?
Vetcher: Nine. Seven. Two. Eight. Nine. O. Five. Two. Zero.
Eight.

The phone rang and Vetcher's wife picked up the phone.

Wife: Hello?
Vetcher: Baby?
Wife: Honey, what's going on? I am so worried..
Vetcher: I am in JFK international airport. They are trying to deport me.
Wife: Oh my God! Honey, is everything going to be okay?
Vetcher: Everything is going to be okay. What they are doing is not right.

Vetcher's voice became emotional. ICE GROUP 1 AGENT UNKNOWN (B-H) snatched the phone from Vetcher's hand and terminated the call.

ICE GROUP 1 AGENT UNKNOWN (B-H): What do you mean everything is gonna be okay?
Vetcher: I am not getting on that airplane.
ICE GROUP 1 AGENT UNKNOWN (B-H): What do you mean you are not getting on the airplane?
Vetcher: I told you back at the field office that I am not flying. My case is still pending.
ICE GROUP 1 AGENT UNKNOWN (B-H): HE IS RESISTING! HANDCUFF HIM!

Two more agents arrived from ICE GROUP 1. Three agents in GROUP 1 forced Vetcher's hands behind his back, handcuffed him, picked him up by the elbows and dragged him through the walkway into the airplane while the fourth agent in GROUP 1 stood guard by the gate. Vetcher yelled, "Help! I want to talk to the captain." Vetcher's foot caught on a ledge. Additional agents totaling 8 from ICE GROUP 1 arrived to show a force. There was an agent grabbing each of Vetcher's extremities while he was handcuffed: head, left arm, right arm, left leg, and right leg. One agent was recording with a camcorder while two more agents stood guard. As the agents pulled on Vetcher lifting him off the ground, the handcuffs dug into his flesh. Vetcher cried out in pain as they carried Vetcher into the airplane.

Agents sat on both sides of Vetcher while the third agent, ICE GROUP 1 AGENT A, covered Vetcher's mouth and nose with his gloved hand. Vetcher could not breathe and he began to lose consciousness.

ICE GROUP 1 AGENT A moved his hand away from Vetcher's nostrils to allow him to breathe when he realized Vetcher was losing consciousness. When Vetcher took a big gulp of breath, mucus dislodged from his sinus and lodged into his trachea. Vetcher went into a fit of coughing spasm.

ICE GROUP 1 AGENT A: Look. I am going to let go of my hand. All you have to do is just nod your head. You'll be a freeman. We are not going to send any escort.

Vetcher: *Cough* I am not going anywhere.

ICE GROUP 1 AGENT A: Well. We are gonna do this again next week.

Vetcher: Next week is next week. I am going to get my stay of removal.

ICE GROUP 1 AGENT B: You kicked an officer. We have it on video.

Vetcher: I know I didn't kick anyone.

ICE GROUP 1 agents took Vetcher by the shoulders and led him off of the airplane.

ICE GROUP 1 AGENT A: Make him carry the bags.

ICE GROUP 1 AGENT B placed Vetcher's bags in front of Vetcher.

ICE GROUP 1 AGENT A: You want to play games with us. We will show you how games are played. If you do not carry that shit at the pace we are walking, you can kiss that shit goodbye.

Vetcher had no doubt the agents would follow through with their intention to deprive him of his personal belongings and legal paperwork given the excuse. Vetcher could not carry the bags filled with personal belongings and legal paperwork (weighing over 70 pounds). He felt the pain from his wrist injuries more acutely as he dragged the bags alternating

side ways through the airport. The adrenaline had worn off. Every step Vetcher took brought on an onslaught of excruciating pain from his bleeding wrists. The agents ignored Vetcher's struggles with his bags. An airport porter witnessed Vetcher's struggle and gestured to give his bags a lift on his cart. The agents waived the help away.

ICE GROUP 1 AGENT A: You better catch up, or it's going in the trash.
Vetcher: I am bleeding from the handcuffs. Can you please take the handcuffs off?

ICE GROUP 1 AGENT A: No.
Vetcher: Can anyone help me with my stuff?

ICE GROUP 1 AGENT A: It's your shit. If one of us has to carry it for you, it's going in the trash.

Excessive Use of Force by ICE Group 2

The next morning after the failed deportation attempt, Agents Steven Garlic and T.G. transported Vetcher to Batavia, New York. The handcuffs were tighter than usual. Vetcher informed Steven Garlic and T.G and requested for the handcuffs to be loosened. The officers ignored Vetcher's requests.

Steven Garlic and T.G placed Vetcher in the back of a van. Every time the van took a turn, or ran over a bump, Vetcher had to stifle a cry of pain. Vetcher's determination to be stoic wavered and he asked the agents again to loosen his handcuffs.

Vetcher: The pain from the wrists is excruciating. Can you please loosen my cuffs?

Steven Garlic: You are going to have to wait until we get to the break. I am not about to stop this van.

The break came about half way through the drive, four hours out of an eight-hour trip. After Vetcher used the restroom while in handcuffs and in five-point restraint, he requested for the handcuffs to be loosened.

Vetcher: Sir, my handcuffs are too tight.
Steven Garlic: You are going to have to wait until we get back to the van.
Vetcher again requested for the handcuffs to be loosened once he returned to the van.
Vetcher: Sir, can you please loosen my cuffs. They are chafing and digging into my injured wrists.
T.G.: [talking to his partner] Can you check it out? He has been bitching about the cuffs for the whole ride.
Vetcher: As you can see, my wrists are completely chafed and the cuffs are too tight.

Steven Garlic forced his thumb between Vetcher's injured inner wrists and twisted it with painful pressure on Vetcher's injury, forcing the handcuffs to dig into Vetcher's wrists further. He smiled as Vetcher held back expressions of pain.

Steven Garlic: If I can fit, they are not too tight.

Vetcher received medical treatment upon arrival in Batavia for his wrist injuries.

Denial of Due Process in Stay of Removal Hearing

After filing for stay of removal, Vetcher made regular phone calls for toll free numbers provided by the facilities to ICE office of Professional responsibility (#9116), ICE hotline, Fifth Circuit Clerk and scheduled visits for deportation officers between January 20, 2015 - March 1, 2015. Vetcher requested that either he or the court be informed of when the deportation is scheduled. Vetcher was moved to Batavia, Ny from Gena, LA about February 24, 2015. The reason why ICE subjected Vetcher to this long distance transfer was to deport him from JFK. Despite the deportation being scheduled from JFK, ICE GROUP 3 (Agent K and unknown, Supervisory Detention and

Deportation Office (SDDO) Irving Aguilera, SDDO Thomas Weidlein) failed to inform Fifth Circuit and Office of Immigration litigation that deportation has been scheduled. Denying Vetcher due process to have his motion for stay of removal adjudicated prior to his removal. Stay of Removal was granted on April 9, 2015.

While the stay of removal was pending Fifth Circuit's decision, DHS/ICE attempted to deport Vetcher from the US. Shortly after Vetcher filed his notice of appeal and his request to stay of removal, he received a notice from the Fifth Circuit Clerk addressed to Deportation Officer Chowhan (DO Chowhan). The clerk informed DO Chowhan that Vetcher's stay of removal petition was pending and that the court should be notified if and when Vetcher deportation was scheduled.

When Vetcher arrived in Batavia on February 23, 2015, he notified ICE GROUP 3 AGENT K, the deportation officer in charge of his detention in New York, that he had a pending stay of removal and requested that AGENT K notify him and Fifth Circuit if deportation was scheduled. AGENT K informed Vetcher that he did not know, but he would inform Vetcher if he learned anything about it. The New York ICE office had Vetcher's travel documents on file as early as February 10, 2015. It was standard practice to have non-charter flight deportations scheduled within 3 weeks of receiving travel documents.

Respectfully Submitted,

July 20, 2021
Date

/s/Ivan A. Vetcher
Ivan A. Vetcher
ivanvetcher@gmail.com
4100 Silverthorne St.
Richardson, TX 75082

Sworn Declaration

Under penalty of perjury, Vetcher affirms that everything stated above is true and correct to the best of his knowledge.

July 20, 2021

Date

/s/Ivan A. Vetcher

Ivan A. Vetcher

Certificate of Service

I, Ivan Alexandrovich Vetcher, state that on July 20, 2021 a copy of the amended complaint was mailed to the parties:

The Honorable Judge Taryn A. Merkl
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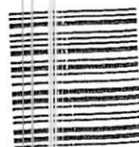
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